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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA THIRD APPELLATE DISTRICT

(Yolo)

SARA MERCEDES GRANDA,

Plaintiff and Appellant,

v.

FORD MOTOR COMPANY,

Defendant and Respondent.

C041457

(Super. Ct. No.
CV98000911)

Plaintiff Sara Mercedes Granda was severely injured in a single-car accident and brought this product liability action against the manufacturer of the car, defendant Ford Motor Company, claiming her injuries were caused by various design and manufacturing defects. The jury returned a special verdict finding that the car had a defective windshield but that this defect was not a proximate cause of plaintiff's injuries.

Plaintiff appeals the ensuing judgment for defendant. She contends the jury's causation finding is not supported by substantial evidence. We affirm the judgment.

FACTS AND PROCEDURAL HISTORY

On July 24, 1997, plaintiff was driving her 1989 Ford Escort southbound on Route 102 in Yolo County. Her brother, David Granda, was in the front passenger seat. The driver's side front window was open and some papers in the back of the car began blowing around. Plaintiff became distracted, and the car drifted off the road to the right. David told plaintiff she was drifting off the road, and plaintiff pulled the car back to the left. However, she overcorrected and lost control of the car. The car rolled over several times and came to rest upright facing north on the shoulder of the northbound lane of the road.

CHP Officer Colleen Buser was traveling northbound on Route 102 at the time of the accident and saw plaintiff's car go out of control and roll over. At one point in the rollover sequence, the car became airborne several feet above the roadway. On the last roll, the car landed "hard" and did not slide. Buser pulled her car over and David Granda ran toward her saying that his sister was hurt. Buser got into the Escort and stabilized plaintiff's neck until more help arrived. Plaintiff was still wearing her seat belt and shoulder harness. The next on the scene was CHP Officer Blake Baldwin. By the time Baldwin arrived, plaintiff was no longer breathing and

Baldwin and Buser got plaintiff out of the car so first aid could be administered.

As a result of the accident, plaintiff suffered a skull fracture, various abrasions, bruises and lacerations, a fracture and displacement of her C-2 vertebra, and other spinal cord injuries resulting in quadriplegia.

Plaintiff and David Granda initiated this action against defendant and Bergen Tire Company (Bergen), who allegedly sold one or more used tires to plaintiff just before the accident. The complaint alleged strict product liability and negligence. The plaintiffs later settled with Bergen, and the court entered judgment for David Granda on Ford's offer to compromise for \$1,000.

The matter was thereafter tried to a jury. Plaintiff presented expert testimony that the rollover was caused by a failure of the car's right rear suspension. Plaintiff also presented expert testimony that the car was not crashworthy because the windshield was not properly bonded to the car body and the roof structure was too weak. According to plaintiff's experts, the windshield separated from the car early in the rollover sequence and, once the windshield popped out, the A-pillars running from the roof to the front of the car buckled and the roof deformed, exposing plaintiff to the road surface as the car continued to roll.

Defendant presented expert testimony that the failure of the right rear suspension was caused by the rollover, not the other way around. Defendant's experts also opined that the roof

structure did not deform until near the end of the rollover sequence, after plaintiff had already been injured. According to defendant's experts, plaintiff was injured when her head made contact with the road surface while it was sticking out the open driver's side window.

The jury returned a special verdict finding no defect in the roof or rear suspension of the car but finding a defect in the windshield. However, the jury concluded the windshield defect was not a proximate cause of plaintiff's injuries.

DISCUSSION

Plaintiff contends that the jury's conclusion that the windshield defect was not a proximate cause of her injuries is not supported by substantial evidence. She argues that uncontradicted facts and expert testimony established causation. Plaintiff does not challenge the jury's findings that there was no defect in the rear suspension or roof.

"When a trial court's factual determination is attacked on the ground that there is no substantial evidence to sustain it, the power of an appellate court begins and ends with the determination as to whether, on the entire record, there is substantial evidence, contradicted or uncontradicted, which will support the determination, and when two or more inferences can reasonably be deduced from the facts, a reviewing court is without power to substitute its deductions for those of the trial court." (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874, italics omitted.) "In determining whether a judgment

is supported by substantial evidence, we may not confine our consideration to isolated bits of evidence, but must view the whole record in a light most favorable to the judgment, resolving all evidentiary conflicts and drawing all reasonable inferences in favor of the decision of the trial court.

[Citation.] We may not substitute our view of the correct findings for those of the trial court; rather, we must accept any reasonable interpretation of the evidence which supports the trial court's decision. However, we may not defer to that decision entirely. '[I]f the word "substantial" means anything at all, it clearly implies that such evidence must be of ponderable legal significance. Obviously the word cannot be deemed synonymous with "any" evidence. It must be reasonable in nature, credible, and of solid value; it must actually be "substantial" proof of the essentials which the law requires in a particular case.'" (*Beck Development Co. v. Southern Pacific Transportation Co.* (1996) 44 Cal.App.4th 1160, 1203-1204.)

Plaintiff contends there was uncontradicted expert testimony that the windshield was defectively bonded to the Granda vehicle. Plaintiff's expert, Robert Beranek, testified that the windshield was properly bonded over only four or five percent of its edge. According to Beranek, if the windshield had been properly bonded to the frame, it would have remained with the car throughout the accident. However, the question here is not whether there was a defect in the bonding of the windshield but whether that defect contributed to Sara's injuries.

Plaintiff contends "[a] critical issue in this case was locating the resting point of the windshield immediately following the accident." According to plaintiff, if the windshield was found along the path the car traveled while rolling over, this would prove the windshield separated from the car early in the rollover sequence rather than near the end. Plaintiff argues that, "if the windshield popped out early in the rollover sequence, leading to failure of the driver's side A-pillar and deformation of the roof, this fact would strongly support plaintiff's theory of *[sic]* that Sara was injured *after* the roof support system failed, whereas, if, as the defense contended, the windshield remained intact with the vehicle until late in the sequence, the likelihood was that Sara's injuries took place *before* the A-pillar buckled and the windshield came out." (Original italics.)

Plaintiff contends the evidence was uncontradicted that the windshield separated from the car early in the rollover sequence. David Granda testified that, after the accident, he noticed the windshield "lying in the road." Officer Baldwin also saw the windshield lying in the road. Barbara Miller, a tow truck operator dispatched to the scene, saw the windshield across the road from plaintiff's car. This was at a time when traffic had resumed on the road and, presumably, the windshield had been moved off the road. It is undisputed that none of the photographs taken at the scene showed the windshield.

Plaintiff argues defense experts premised their opinions regarding the reconstruction of the accident on an assumption

that the windshield was underneath the car when it came to rest, not up the road along the car's path. Thus, plaintiff argues, the opinions of defendant's experts are not entitled to any weight.

The opinion of an expert "'is only as good as the facts and reasons on which it is based'" (*Howard v. Owens Corning* (1999) 72 Cal.App.4th 621, 633.) "If the jury finds that the party offering expert testimony has failed to prove any foundational fact, or that some fact on which the expert's opinion is based has been disproved by the opposing party, the jury is required to consider that in evaluating the expert testimony." (*Ibid.*)

Plaintiff's argument that the location of the windshield up the road from the car after the accident undermines the opinions of defendant's experts is flawed for several reasons. First, there is no evidence that defendant's experts premised their opinions on the windshield being under the car after the accident, as plaintiff asserts. Defendant's primary accident reconstruction expert was Dr. Ronald Wooley. Two of defendant's other experts, Dennis Schneider and Kenneth Orlowski, relied on Dr. Wooley's reconstruction in forming their opinions.

Dr. Wooley opined that the car rolled over four times, during which the roof made contact with the road three times. There was no contact on the second roll. Dr. Wooley indicated the car had three sets of scratches from three separate contacts. He also indicated the driver's side window came in contact with the road on the first and third rolls. According

to Dr. Wooley, because there were no heavy scratches on the tenting of the roof (where the roof rises up in the center as it deforms), the tenting must not have occurred until late in the rollover sequence, sometime between the third and fourth rolls. Dr. Wooley opined that the physical evidence, including the scratches, is consistent with the windshield separating from the car at the time of the roof deformation, i.e., between the third and fourth rolls. This evidence included scratch patterns on the windshield itself.

To support her assertion that defense experts assumed the windshield was under the car at the end of the rollover sequence, plaintiff cites the testimony of her own reconstruction expert, Dr. Frederick Arndt. Dr. Arndt testified that Dr. Wooley "thought [the windshield] was underneath the car." However, Dr. Wooley himself testified that he did not know where the windshield landed after the accident, but that he would look for it around the final landing area. Although Dr. Wooley admitted that his reconstruction of the accident was inconsistent with the windshield coming to rest down the road from the car, he opined that the physical evidence on the car itself is more important in reaching his opinions than the eyewitness testimony about the location of the windshield. He believed Officer Baldwin was mistaken about the location of the windshield, in light of the fact that Baldwin had twice before said he did not see the windshield at the accident scene.

Most importantly, however, the fact that the windshield may have separated from the vehicle earlier than Dr. Wooley believed

does not undermine his opinion about when the roof deformed. The basic premise of plaintiff's argument is that the windshield was defectively bonded to the car and that this weakened the roof sufficiently that, upon application of enough force, the windshield separated from the car and the roof deformed. Stephen Forrest, plaintiff's roof expert, testified that the windshield provided 20 percent of the roof's strength. Robert Beranek testified that if, during the first roll, there was sufficient force to deform the A-pillar, the windshield would have popped out. However, no expert testified that deformation of the roof necessarily preceded or was simultaneous with the separation of the windshield from the car.

Dr. Wooley testified that the passenger side A-pillar buckled early in the rollover sequence. Scratches were found on either side of the buckle, but none in the valley of the buckle. Thus, the deformation of the passenger side A-pillar preceded the scratches. By contrast, a buckle in the driver's side A-pillar had two sets of scratches in its valley. According to Dr. Wooley, those scratches, which would have been made during the first and third rolls, preceded the deformation of this A-pillar. Thus, the driver's side A-pillar did not deform until after the third roll. Plaintiff's reconstruction expert, Dr. Arndt, opined that the driver's side A-pillar deformed during the first roll. However, he acknowledged on cross-examination that the scratches in the valley of the A-pillar came before the deformation.

Even if we accept the basic premise of plaintiff's argument--that the location of the windshield up the road from the car after the accident suggests the roof deformed early in the rollover sequence--the jury was presented with contradictory evidence that deformation of the driver's side A-pillar and tenting of the roof did not occur until after the first two sets of scratches were made, i.e., after the third roll. It was for the jury to sort out this possible contradiction.

Plaintiff argues that "[t]he most logical and straightforward, and most likely cause of [her] injury was loss of the windshield due to *admitted* manufacturing defect, resulting in deformation of the roof and exposure of [plaintiff's] head to the hard pavement during the accident." However, even if this were the most logical explanation, it is not the only one. Defendant presented an alternate theory for the accident that rendered the windshield separation and roof deformation irrelevant to plaintiff's injuries. This alternate theory is supported by substantial evidence.

DISPOSITION

The judgment is affirmed.

_____, HULL, J.

We concur:

_____, SCOTLAND, P.J.

_____, BUTZ, J.